



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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**CARLOS ROSARIO,**

Plaintiff,

- against

**GLENN GOORD**, Commissioner of the New York State Department of Correctional Services; **WILLIAM MAZZUCA**, Superintendent of Fishkill Correctional Facility; **OBINNA ISIADINSO, M.D.**, former Medical Director of Fishkill Correctional Facility; and **IRA JAMES ELLEN, M.D.**; and **MARYANN GENOVESE, M.D.**, "JOHN" being a fictitious first name,

Defendants.  
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**STIPULATION AND  
ORDER OF DISMISSAL**

05 Civ. 816 (DAB)(RLE)

(This is an ECF filing)

WHEREAS, plaintiff, Carlos Rosario, filed a complaint on January 21, 2005, which, as amended, names defendants Glenn Goord, William Mazzuca, Obinna Isiadinso, Ira James Ellen, and Maryann Genovese, and alleges that defendants had violated plaintiff's rights during plaintiff's incarceration in the New York State Correctional Services system; and

WHEREAS, defendants answered the complaint and denied all allegations that their conduct violated plaintiff's constitutional or other rights; and

WHEREAS, pursuant to a stipulation so ordered on May 29, 2007 plaintiff withdrew all claims against Mary Genovese; and

WHEREAS, the parties are interested in resolving the issues alleged in the complaint in the above-captioned action (the "Action"), and with the assistance of the Honorable Ronald L. Ellis, Magistrate Judge of this Court, have negotiated in good faith for that purpose; and

WHEREAS, none of the parties to the Action is an infant or incompetent person; and

WHEREAS, the parties to the Action are desirous of discontinuing this litigation without the need for trial of damages and without admitting any wrongdoing on the part of the defendants;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties and/or their respective counsel as follows:

1. The Action is hereby dismissed and discontinued with prejudice.
2. Defendants shall pay to plaintiff the sum of \$415,000.00, in full satisfaction of any and all claims for relief in the Action. The check in payment of the above-recited sum shall be drawn to the order of plaintiff Carlos Rosario and plaintiff's attorney, Koob & Magoolaghan, and mailed to the plaintiff's attorney at 221 Devoe Avenue, Yonkers, NY 10705.
3. In consideration of the payment of the sums recited in paragraph #2 above, the plaintiff, Carlos Rosario, hereby releases and discharges each of the defendants and any and all current or former employees or agents of New York State or the New York State Department of Correctional Services, in their individual and official capacities, and their heirs, executors, administrators and assigns, and the State of New York and its agencies, including, without limitation, the New York State Department of Correctional Services, from any and all claims, liabilities and causes of action which plaintiff or plaintiff's representatives, heirs or assigns ever had, now has or hereafter shall or may have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of this stipulation and order.
4. Nothing in this Stipulation of Settlement shall be construed as an admission or acknowledgment of liability whatsoever by any of the defendants or the New York State Department of Correctional Services regarding any of the allegations made by the plaintiff in his complaint.

5. Payment of the amounts recited in paragraph #2 above is subject to the approval of all appropriate New York State officials in accordance with the provisions for indemnification under Section 17 of the New York Public Officers Law. Plaintiff and plaintiff's counsel agree to execute and deliver to counsel for defendants all necessary or appropriate vouchers and other documents requested with respect to such payment. Except for the payment to be made to plaintiff's attorney in satisfaction of any claims for attorney's fees, costs and disbursements, the provisions of Chapter 62 of the Laws of 2001 may be applicable to payments by defendants hereunder.

6. Subject to the provisions of the foregoing paragraphs, in the event payment of the amount recited in paragraph #2 above is not made within ninety (90) days after the receipt by defendants' counsel from plaintiff of a copy of the fully executed So-ordered Stipulation of Settlement as entered by the Court, interest shall accrue on the outstanding principal balance at the rate set forth in 28 U.S.C. § 1961 beginning on the ninety-first day after receipt by defendants' counsel of a copy of the fully executed So-ordered Stipulation of Settlement.

7. This Stipulation of Settlement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or proceeding as evidence or for any other purpose, except in an action or proceeding to enforce this Stipulation of Settlement.

8. This Stipulation of Settlement and Order of Dismissal embodies the entire agreement of the parties in this matter and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings, shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
January 4, 2008

ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Defendants  
120 Broadway  
New York, New York 10271-0332

By: Susan H. Odesky  
SUSAN H. ODESSKY  
Assistant Attorney General  
120 Broadway - 24<sup>th</sup> Floor  
New York, New York 10271  
(212) 416-8572

Dated: Yonkers, New York  
January 4, 2008

KOOB & MAGOOLAGHAN  
Attorneys for Plaintiff

By: Elizabeth Koob  
ELIZABETH KOOB  
221 Devoc Avenue  
Yonkers, New York  
(914) 964-8888

Dated: Yonkers, New York  
January 4, 2008

Carlos Rosario  
CARLOS ROSARIO  
Plaintiff

SO ORDERED

Deborah A. Batts  
DEBORAH A. BATTS  
UNITED STATES DISTRICT JUDGE 1/9/08